

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SONDRA J. ALLPHIN,

Plaintiff,

v.

PETER K FITNESS, LLC; PETER T.
KOFITSAS; FULCO FULFILLMENT, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No.: 13-CV-01338-LHK

ORDER GRANTING REQUEST TO
VACATE ENTRY OF DEFAULT AND
REQUESTING CLARIFICATION

PETER K. FITNESS, LLC, a New Jersey
Limited Liability Company,

Third-Party Plaintiff,

v.

IDEAL JACOBS CORPORATION, IDEAL
JACOBS (XIAMEN) CORPORATION,
ANDREW CONRAD JACOBS, XIAMEN
IDEAL JACOBS INTERNATIONAL
LIMITED, IDEAL JACOBS XIAMEN
CORPORATION, IDEAL JACOBS
MALAYSIA CORPORATION

Third-Party Defendants.

On March 25, 2013, Third-Party Plaintiff Peter K. Fitness, Inc. ("Peter K. Fitness") filed a Third-Party Complaint, naming as Defendants Ideal Jacobs Corporation, and Ideal Jacobs (Xiamen) Corporation ("Ideal Jacobs (Xiamen)"). ECF No. 4.

On May 28, 2013, Peter K. Fitness filed a request for entry of default against Ideal Jacobs (Xiamen). ECF No. 24. Default was entered as to Ideal Jacobs (Xiamen) on May 29, 2013. ECF No. 25.

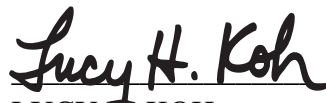
On June 5, 2013, the parties filed a stipulation to file an Amended Third-Party Complaint, naming the original two Defendants and several others, as reflected in the caption of this action. ECF No. 27. The Court granted the stipulation on June 7, 2013. ECF No. 31. Third-Party Defendant Andrew Conrad Jacobs filed an Answer to the Amended Third-Party Complaint on June 27, 2013, alleging in relevant part that Ideal Jacobs (Xiamen) was dissolved on or about July 26, 2011. ECF No. 36, at 2.

On July 1, 2013, Peter K. Fitness filed a request to vacate the May 29, 2013 Default entered against Ideal Jacobs (Xiamen), and to dismiss Ideal Jacobs (Xiamen), "a dissolved New Jersey Corporation," from this action without prejudice. ECF No. 37. Accordingly, the Court VACATES the May 29, 2013 Default entered against Ideal Jacobs (Xiamen).

However, on July 2, 2013, Peter K. Fitness filed a new Amended Third Party-Complaint, again naming Ideal Jacobs (Xiamen) as a Defendant. ECF No. 38. The Court requests clarification from Peter K. Fitness as to whether the July 2, 2013 filing constitutes a Second Amended Complaint, and whether Peter K. Fitness continues to seek the dismissal without prejudice of Ideal Jacobs (Xiamen).

IT IS SO ORDERED.

Dated: July 8, 2013


LUCY H. KOH
United States District Judge